IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.325 OF 2005

Mangesh @ Manjunath Muniappa
Gauda ... Applicant

versus

State of Maharashtra ... Respondent

...

Mr. R.V. Gupta, for the Applicant.

Mr. R.Y. Mirza, A.P.P., for the Respondent.

...

CORAM : A.M.KHANWILKAR,J.

2nd February 2005

P.C.:

. Heard Counsel for the parties. The offence for which the Applicant is being tried is undisputedly bailable offence, namely, Section 37((1)(a) read with section 135 of the Bombay Police Act. The Court below, however, has rejected the application on the reasoning that although it is bailable offence, application under section 439 of the Code is unavailable.

(See para 8 of the impugned decision). This reason, to my mind, is wholly absurd and cannot stand the test of judicial scrutiny. Learned A.P.P., although submits that the Applicant is required in connection with other offences, that aspect need not detain me as I am presently concerned only with offence in L.A.C.No. 518/1998 registered with Sion Police Station. Accordingly, the Applicant is granted bail on the same terms on which he was released on bail by the lower Court on the earlier occasion but on executing fresh bond and/or surety, as the case may be. It will be open to the lower Court to impose additional conditions to secure the presence of the Applicant at the trial. Application disposed of on the above terms.

2. Copy of this order be forwarded to the Registrar-General of this Court to bring it to the notice of the appropriate authority in view of the observations made in respect of the impugned decision.

(A.M.KHANWILKAR,J.)